

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.2006 OF 1992.

Siddheshwar Hari Joshi & ors. : Petitioners.

versus

Antu Maruti Jadhav

(Deceased through heirs

1A Yeshwant Antu Jadhav & ors. : Respondents.

Mr.V.A.Thorat for the petitioners.

None for the respondents.

CORAM : D.G.DESHPANDE, J.

DATED : September 15, 2006.

ORAL ORDER

1. Heard learned Advocate Mr.Thorat for the petitioners. Petitioners are the landlords. Father of the petitioners executed an agreement for sale with the respondents in 1961. Prior to that on 3rd May 1960 there was an agreement of

lease between the father of the petitioners and the respondents. Then the petitioners started claiming tenancy right. The petitioners filed a Civil Suit. Issue of tenancy was referred to the Tenancy Court and, the last decision came to be given by the Maharashtra Revenue Tribunal (herein after referred to as "MRT) on 31.12.1991 against which the present petition is filed. By that decision of MRT the Revision Application of the landlords was dismissed. Issue under reference was answered in the affirmative and the findings of both the courts below were upheld.

2. Mr.Thorat, the learned advocate appearing for the petitioners, contended that since the respondents/tenants are claiming tenancy right after the Tillers' day, then as provided under Section 32(0), they should exercise the right of purchasing tenanted land within one year and since admittedly the tenants have not exercised their right then their right as tenants in respect of the suit property came to an end automatically.

. This submission of advocate Mr.Thorat for the petitioners is partly true and not wholly

true. Section 32(0) of the Bombay Tenancy and Agricultural Lands Act, 1948 (herein after referred to as "The Tenancy Act") is not an end in itself. Thereafter there is Section 32P and, if the tenants does not exercise his right under Section 32(0), then the Tribunal has to make an enquiry as contemplated in detail by that Section and then come to the conclusion to give directions in the nature of subsection (2) of Section 32P. In fact, the MRT, while dismissing the revision application of the landlords, made similar observations in para 5 of its impugned judgment, and therefore, that is the only thing that can be now done. Therefore, this petition is disposed of. The petitioners will be entitled to start the proceedings under Section 32P on the basis of provisions of Section 32(0) of the Tenancy Act. Advocate Mr.Thorat states that the property is in possession of the tenants as on today. The statement is recorded. The petitioners to move the Tribunal in this regard within a period of one month from today. With these directions the petition is disposed of. Rule is discharged accordingly. Interim stay, if any, stands vacated.

[D.G.DESHPANDE, J.]